



Board Report

File #: 2017-0686, File Type: Policy

Agenda Number: 8.

**REVISED
EXECUTIVE MANAGEMENT COMMITTEE
NOVEMBER 16, 2017**

SUBJECT: MEASURE M EARLY PROJECT DELIVERY STRATEGY

ACTION: APPROVE POLICY

RECOMMENDATION

APPROVE the policy for a Measure M Early Project Delivery Strategy, outlined in Attachment A.

ISSUE

This item proposes a uniform policy for determining when Measure M projects can be delivered earlier than scheduled, as allowed by the Ordinance. Attachment A is the proposed Policy. Attachment B is an explainer about it, including the rationale and frequently asked questions. A comprehensive policy to transparently and uniformly guide decision-making about how and when projects can be delivered earlier increases the likelihood that project acceleration can be achieved. Furthermore, stating the fundamental responsibilities for collaboration between Metro and its many partners helps to keep projects on schedule and within budget.

BACKGROUND

Policy Authority

The Measure M Ordinance approved by Los Angeles County voters allows for project acceleration. Section 11, paragraph b states: *“By two-thirds (2/3) vote, the Metro Board of Directors may amend the “Schedule of Funds Available” columns listed in Attachment A to accelerate a project, provided that any such amendments shall not reduce the amount of funds assigned to any other project or program as shown in the “Measure M Funding 2015\$” column of Attachment A or delay the Schedule of Funds Available for any other project or program.”* This is essentially a hold harmless clause, which in laymen’s terms could be interpreted to mean that “projects can be accelerated as long as doing so does not delay or otherwise negatively impact other projects”.

Policy Need

During development of the Measure M Ordinance in 2016, many stakeholders expressed a desire to have projects delivered earlier. Therefore, the aforementioned authority was written into the

Ordinance to allow for project acceleration. Despite the enabling language, a policy framework for an early project delivery strategy does not exist. This has resulted in requests for early delivery of individual projects lacking supporting evidence, inefficient use of resources in addressing the requests and disappointment by proponents who have not been provided clarity in how to accelerate a project.

Policy Benefits

The faster projects in Measure M can be completed, the sooner Metro can expand access to opportunity for the residents of Los Angeles County. These projects improve mobility for all those who live, work, play and visit the region. A strategic framework for how to accomplish early project delivery enables attaining it. That achieves all of the benefits set forth in the preamble of the Measure M Ordinance.

Policy Approach

The four categories of strategic inputs for early project delivery - Funding, Partnerships, Process and Innovations - were identified because those are the areas most impactful in driving how projects are completed. These strategic inputs are project accelerators that could partially support facilitating early project delivery. Multiple inputs are generally needed to achieve early project delivery. For projects at risk of delay, a disclosure and recovery plan must be prepared.

Policy Process

A screening tool is used to suggest the propensity for early project delivery. If the propensity exists, then staff conducts a further analysis to confirm the likelihood of early project delivery. For projects with potential for acceleration, the Board considers and then makes the final decision, following a public process set forth in controlling law.

Policy Iteration

At its September 21, 2017 regular meeting, the Executive Management Committee (EMC) reviewed a concept for establishing a policy and factors for determining when a Measure M project can be accelerated or decelerated (File #2017-0596). EMC forwarded the concept to the Board for discussion at its September 28, 2017 regular meeting without recommendation. At that time, they conveyed a favorable view of the concept of acceleration, while finding a need for a guiding policy.

- The need and emphasis for the policy should be about early project delivery.
- Be clear that the screening tool itself does not result in a decision; generally multiple factors are needed to trigger early project delivery.
- Forward to Policy Advisory Council, Measure M Independent Taxpayers Oversight Committee and conduct stakeholder engagement.

The Board provided similar feedback. Concerns were also raised about addressing the potential for project delays/deceleration at an equivalent level to early project delivery/acceleration, when the goals are to standardize how projects are evaluated for early delivery and articulate how Metro and its many partners can collaborate to deliver Measure M projects on schedule and within budget. Staff

has also undertaken ongoing stakeholder engagement since the Board meeting. As a result of this iterative process, this is the third draft of the Policy.

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The score assigned to each input has been added along with various text, all of which advance the initial concept into a further developed policy document with greater clarity. The point value assigned to each input is based on the relative strength of the input to contribute toward achieving early project delivery. The three percentage ranges that define low, medium and high propensity for project acceleration are simplistically set at thresholds of a third.

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This version of the Policy recognizes and emphasizes the goal of the Board, Metro’s partners and the public to focus efforts on an early project delivery strategy, while also being clear what the fundamental responsibilities are to ensure projects can be completed on schedule and within budget. The Policy is structured yet flexible. With the clarity provided by the Policy, energies can be more effectively focused on actually achieving early delivery of projects.

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The impacts of early project delivery decisions would be case-specific. Analysis of budget and long range financial programming would be an essential part of the analysis that would accompany any considerations under this proposed approach.

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ALTERNATIVES CONSIDERED

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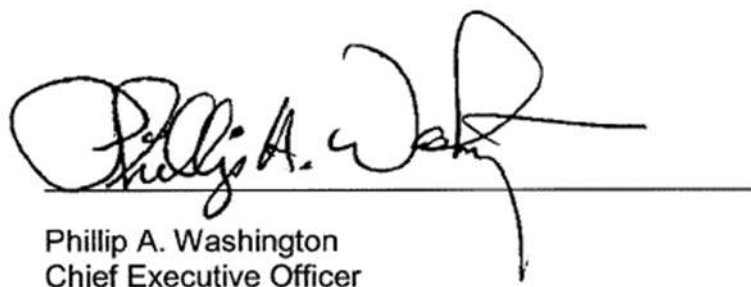
ATTACHMENTS

Attachment A - Proposed Metro Board Policy: Early Project Delivery Strategy

Attachment B - About Metro's Proposed Policy: Early Project Delivery Strategy

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Phillip A. Washington
Chief Executive Officer

ATTACHMENT A

Proposed Metro Board Policy: Early Project Delivery Strategy

EFFECTIVE DATE:

[date]

TITLE

- This Policy shall be referred to as the **Early Project Delivery Strategy**.

PURPOSE

- This Policy establishes clear, uniformly applied criteria to determine if a Measure M Project can be delivered faster than scheduled in the Measure M Expenditure Plan. A comprehensive policy allows for rigorous and expeditious analyses and determinations. It provides for transparency and financial accountability. Projects can be accelerated as long as others are not negatively impacted, pursuant to the Measure M Ordinance.

PROCESS

1. Identify multiple inputs that suggest a potential for acceleration. A screening tool will then be utilized to assist in identifying the inputs that potentially have occurred and whether an initial assessment of the propensity for acceleration is warranted.
2. If warranted, staff will then conduct an analysis to confirm the ability to accelerate a project schedule, determine the extent to which a project could be accelerated and what would be the impacts of that action.
3. The Board of Directors will review the staff analysis and may: (a) give direction to subsequently provide notice and take action pursuant to controlling law; (b) decline to find for early project delivery; or (c) direct staff to undertake further analysis.

GENERALLY

- Multiple acceleration inputs are typically needed to result in accelerating a project schedule.
- A project's funding, schedule, scope or legal/regulatory environment are integral to the acceleration inputs.
- Acceleration inputs considered may also indirectly relate to the project if they are demonstrated to substantially advance system performance or adopted policies of the Board.
- Acceleration inputs are intended to be transportation mode-neutral, unless otherwise indicated (e.g., mode-specific funding revenues or fees).
- Funding considerations must be consistent with all applicable local, state, and/or federal rules and regulations; and Board-adopted debt policy.

DEFINITION

- **Accelerator:** a single strategic input that could partially support facilitating early delivery of a Measure M project.

STRATEGIC INPUTS FOR EARLY PROJECT DELIVERY

	Accelerator	Points
Funding (30 points)	1. New Revenue. Has new, committed funding become available at an amount greater than 25% of the total project construction cost?	15
	A. Is this funding discretionary?	2
	B. Is this funding somehow conditional to the project or time-sensitive?	5
	C. Is funding cash flow available sooner as a result of a delayed project?	3
	D. Are confirmed surplus funds available from another project in the same subregion, based on a final Life of Project budget?	2
	E. Would there be cost savings of at least 25% based on the time value of money resulting from this funding accelerator?	3
Partnerships (30 points)	2. Regional Responsibility. Have one or more of the local jurisdictions within which the project is located substantially advanced or committed to advancing the implementation of one or more Metro Board adopted goals and policies that support the integration of transportation and land use for which Metro is reliant upon its local partners to achieve?	6
	3. Process Streamlining. Have all responsible local agencies streamlined permitting processes and executed or committed to executing necessary memoranda of agreements prior to awarding of the project construction contract?	3 5
	4. Additional Support. Is the local jurisdiction and/or other local partner contributing at least 10% more than the required 3% contribution or 5% of the project cost within that jurisdiction from other sources?	5
	5. Value Capture. Is a local improvement, financing district or other value capture financing tool existing or will be established within three years of the groundbreaking date for the purpose of funding at least 10% of the project cost within the jurisdiction in which the financing tool is established?	5
	6. Advance Funding. Is there a proposal by a local jurisdiction or other party to advance funding, which would deliver all or a functional segment of the project 10% faster earlier?	5
	7. Impact Fees. Is there a program to collect a fee in-lieu of providing required parking and/or local traffic mitigation fees/improvements , with revenues allocated to transit passes and other transportation demand management (TDM) strategies that are directly dependent on and in support of Metro's project, or a goods movement impact fee program to fund improvements, in conformance with California and federal laws?	3 4
	8. Is there a goods movement impact fee program to fund improvements in conformance with California and federal laws?	3

	Accelerator	Points
Process (25 points)	9. Streamlined Review. Is this project currently undergoing or can commit to a streamlined planning and environmental review process that does not exceed three years in duration?	5
	10. Clearance Complete. Has this project concluded the planning and environmental review process, needing no more than a refresh of the environmental document(s), not exceeding one year in duration to complete (Operation Shovel Ready)?	10
	11. Phased Completion. Can this project be designed to phase improvements to achieve early action, incremental benefits?	8
	12. Property Availability. Has at least 75% of the required right-of-way and site acquisitions been completed or is anticipated to be completed within one year?	2
Innovations (15 points)	13. Alternative Solutions. Is there an equal or superior, less costly improvement to accomplish the capacity and performance intended by the transportation project?	3
	14. Technological Innovations. Are there technological innovations that will reduce the planned capital and/or operating cost of the project?	3
	15. Consolidated Delivery. Is there an opportunity to combine two or more projects/segments to achieve economy of scale and minimize impacts of multiple back-to-back construction over a long period of time such that the combined project construction cost is reduced by at least 25%?	3
	16. Delivery Method. Is this project the subject of a public-private partnership proposal or other unsolicited proposal that can reduce the estimated construction cost by a minimum of 10% or accelerate the delivery date by at least 5 years?	6

PROPENSITY FOR EARLY PROJECT DELIVERY

High:	67-100	Automatically advances to staff analysis and Board consideration
Medium:	34-66	Advances to staff review, which determines whether Board consideration is warranted
Low:	0-33	Does not advance to staff review nor Board consideration
Exception:	N/A	Project acceleration can unambiguously be demonstrated by an exceptional condition regardless of scoring (e.g., unexpected full funding from outside source)

MEASURE M PROJECT EVALUATION READINESS TOOL (M-PERT)

- M-PERT is an evaluation tool only—not a determinative decision tool.
- Required initial screening step (unless exceptional condition, per above).
- All Measure M projects ordered as listed in the Expenditure Plan are included.
- The above acceleration strategic inputs are set forth as “yes” or “no” questions to answer.
- A score given to each input to measure its relative strength in impacting project timing; a “yes” answer returns the possible score for that input, as listed above.
- An overall score given as a low, medium and high indicator for acceleration.
- An accounting of evaluations conducted is logged and reported.
- The M-PERT tool is for use by Metro staff, Board Directors and their deputy staff.

MAINTAINING PROJECT SCHEDULES: HOW TO HELP METRO DELIVER PROJECTS

	Responsibilities
Funding	<ul style="list-style-type: none"> Protect all funding sources allocated to the project, per Metro’s financial plan.
	<ul style="list-style-type: none"> Keep the project within the budgeted cost identified in the Measure M Expenditure Plan.
Partnerships	<ul style="list-style-type: none"> Request design features that have a rational nexus to potential project impacts.
	<ul style="list-style-type: none"> Minimize permitting requirements and ensure that ministerial actions are a staff-level decision, done timely.
	<ul style="list-style-type: none"> Establish and maintain an effective, genuine public and stakeholder engagement process.
Process	<ul style="list-style-type: none"> Select a Locally Preferred Alternative that can be constructed within budget or augmented with reasonably expected, new outside funding sources that are needed to achieve desired community goals and compatibility.
	<ul style="list-style-type: none"> Pursue constructive conflict resolution, creativity and solutions that are in rough proportionality to the problem to avoid litigation delays.
	<ul style="list-style-type: none"> Thoroughly address environmental issues and avoid project design features that trigger costly mitigation measures.
Innovations	<ul style="list-style-type: none"> Rely upon current, proven technology for the project design, rather than await speculative innovations.
	<ul style="list-style-type: none"> Seek any necessary regulatory reform and streamlining to allow the rapid deployment of any available state-of-the-art, proven technologies that can increase capacity, reduce travel times or improve safety, which can help keep the project on time and at or below budget.

DISCLOSURE AND RECOVERY PLAN

- A disclosure and recovery plan shall be prepared for a project at risk for delay.

ANNUAL REPORTING AND EVALUATION

- The CEO shall report annually on activities and actions pertaining to this Policy, including projects being considered for early project delivery, the number of screening inquiries conducted for each project using M-PERT and projects under or being considered for a Disclosure and Recovery Plan.



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ATTACHMENT B – ABOUT METRO’S PROPOSED POLICY: EARLY PROJECT DELIVERY STRATEGY

Highlights

- **Establishes uniform criteria.** Guides decision-making about the propensity for early project delivery with uniform, transparent criteria.
- **Promotes cooperation and discipline.** Encourages effective collaboration between Metro and its many partners to promote timely delivery of Measure M projects.
- **Know how to help.** Gives advice on how to maintain project delivery schedules.
- **Protects performing projects.** Because Measure M prohibits accelerating a project schedule to the detriment of any other project, any change to one project schedule does not affect the others.
- **Board of Directors makes the decision.** Changes to a project schedule requires a two-thirds vote of the Board of Directors, following a public noticing period.

Background

During development of the Measure M ordinance in 2016, many stakeholders expressed a desire to have projects delivered earlier. Therefore, Measure M provides flexibility in the use of funds to allow schedule acceleration. The Measure M ordinance includes permissive language for project acceleration, as long as doing so does not delay any other project. The voters approved the Measure M ordinance in November 2016.

Overview

- **What is the proposed Early Project Delivery Strategy?**
This comprehensive policy was prepared to guide decision-making on the propensity for a project to be delivered earlier than scheduled in Measure M. This includes opportunities to accelerate the schedule for an individual Measure M transportation improvement project and opportunities to improve project schedule performance. Four categories encompassing multiple inputs affecting the timing of a project include: Funding, Process, Partnerships and Innovations.

Purpose and Need

- **Why is it needed?**
A clear, uniformly applied set of criteria allows for objective decision-making about the schedule status for an individual project, following a rigorous analysis. This promotes transparency and financial accountability.
- **Why is Metro articulating responsibilities about maintaining project delivery schedules?**
There is much that Metro can do to responsibly and effectively lead and manage the delivery of the Measure M projects. However, Metro needs the support and cooperation of its many partners to deliver the projects the voters understood to be a sacred promise of government when they approved Measure M with 71 percent of the vote. These many partners have permitting authority, influence project design and participate in the environmental review process. Balancing the benefit of engagement by both Metro and its partners within voter-approved budget and schedule requirements takes effective collaboration. This Policy is transparent about how Metro and its many partners can work together within a disciplined framework to deliver the promise and potential of this transformative transportation infrastructure investment program.

Process

- **How does it work?**

The first step is an initial screening review using a streamlined evaluation tool in which every input is posed as a question with a yes-no answer. A point value is assigned to each input based on the strength of the input to accelerate. The higher the point value, the greater the propensity for acceleration. The second step is a detailed staff analysis. A project shown by the screening tool to have low potential does not advance into staff analysis. Moderate and high potential projects do. All staff analyses are reported to the Board, but only high potential projects automatically advance to Board review. Moderate potential projects are considered for Board review following a review of the results in the staff analysis. The third step is Board consideration of the staff analysis. The Board may find that acceleration exists and take action after following the procedural requirements in Measure M. The Board may also direct staff to undertake more analysis, or decline to take any action.

- **Who determines whether a project has the potential for acceleration?**

The Metro Board of Directors is the final decision-maker on project acceleration. The decision must follow the law set forth in Measure M. A two-thirds vote is required to accelerate a project schedule. (*Section 11, Measure M ordinance*)

- **How is the proposed Policy consistent with Measure M?**

Per the Measure M ordinance, a project schedule can be accelerated as long as others are not negatively impacted.

- **If a project is accelerated, do all the other projects get delayed?**

No. Per the Measure M ordinance, a project cannot be accelerated if it delays other projects. Only the individual schedule for the accelerated project changes, when it can be done independently.

- **Are there required inputs that must occur to accelerate a project?**

No. Generally, multiple inputs need to occur for these complex, Measure M projects to accelerate. Therefore, there is no mandatory input out of all the inputs identified in the Policy. An exception is when an acceleration occurrence clearly would result in changing the timing of project delivery (e.g., unexpected full project-specific funding from the federal/state government). However, this is an exceptional circumstance.

Contact

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EXAMPLE EARLY PROJECT DELIVERY SCENARIO (FICTITIOUS NAMES USED)

Acceleration

Citius Transit Corridor is scheduled to open in 2035. A new Funding source is allocated from the federal government for 35 percent of the cost and may only be used for this project, if the project can be completed by 2028. The Federal Transit Administration agrees to a streamlined environmental review Process because Metro has demonstrated that it has narrowed the range of alternatives during a feasibility study after significant public engagement. The cities of Collins Fort and Valley Carmel are working in a collaborative Partnership with Metro by initiating the establishment of an Enhanced Infrastructure Financing District to assist in the early funding of stations and project betterments, while the Rockstacker Council of Governments commits five years of a portion of its multi-subregional program funds. An unsolicited proposal for a public-private partnership includes extraordinary Innovations that demonstrate an ability to deliver and operate the project much faster and cheaply, including technological innovations for modular construction techniques. Deputy staff for Board Director Speedy apply the M-PERT screening tool, which returns a moderate potential for acceleration. Metro staff conducts an analysis and finds that the time value of money savings can fund operations and maintenance costs for the seven years of early operation. The Metro Board of Directors accepts the staff recommendation to accelerate the project, public noticing procedures are completed and the Board votes unanimously to accelerate the project to a delivery year of 2028. All other project schedules in the Measure M schedule remain unchanged because the inputs that created the opportunity for an accelerated project completion only affects Citius Transit Corridor.



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MEASURE M PROJECT EVALUATION READINESS TOOL (M-PERT)

Purpose

- The M-PERT tool allows for a streamlined, initial screening review to determine whether an acceleration is likely.

How it Works

- The screening tool includes all of the individual inputs in the Policy, each with a point value relative to the strength of the input to move a project toward acceleration. Multiple inputs are needed for these Measure M projects to potentially be accelerated, unless an exceptional circumstance has occurred.

Users

- Because the tool allows for a streamlined screening-level evaluation of complex information that relies on deep, existing familiarity of individual project information, the M-PERT is for use by Metro staff, Board Directors and their deputy staff. Other stakeholders and the public can ask their Board representative to conduct a screening review using the tool, if there is reason to believe an acceleration is likely.



Measure M Early Project Delivery Strategy

Executive Management Committee
November 16, 2017

Board of Directors
November 30, 2017

The Value of a Comprehensive Policy

- Establishes clear, uniformly applied criteria
- Allows rigorous and expeditious analyses and determinations
- Provides for transparency and financial accountability

Policy Development Process Background

- Revisions based on Board and stakeholder input
- Concerns about addressing project delays at equivalent level to early project delivery
- Goals:
 - Standardize evaluation for early delivery
 - Articulate how Metro and partners can collaborate to deliver projects on schedule and budget



Policy Highlights

- Establishes uniform criteria
- Promotes cooperation and discipline
- Know how to help
- Protects performing projects
- Board of Directors makes the decision

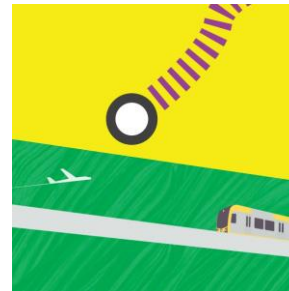
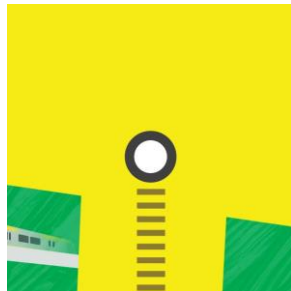
Strategic Inputs for Early Project Delivery

- Funding
- Partnerships
- Process
- Innovations



Approach

- **Accelerator:** a single strategic input that could partially support facilitating early delivery of a Measure M project
- Articulates fundamental responsibilities for maintaining project schedules
- Disclosure and recovery plan for projects at risk for delay



Evaluation Process

- Identify applicable acceleration inputs and apply screening tool
- Staff conducts analysis if tool demonstrates propensity for early project delivery, along with impacts in taking action
- Board of Directors review
 - Decide to subsequently provide notice and take action
 - Decline to find for early project delivery
 - Direct staff to undertake further analysis



Recommendation

- APPROVE the policy for a Measure M Early Project Delivery Strategy





Discussion



Metro



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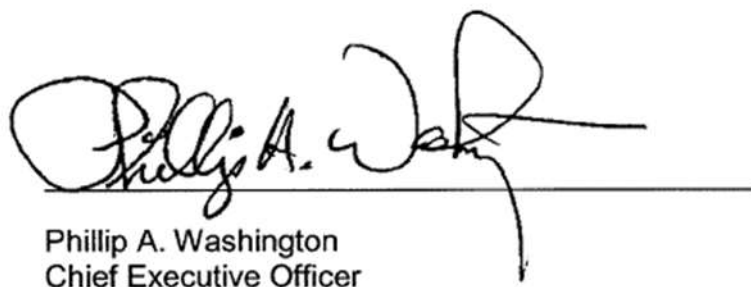
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